



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 21 2011

CERTIFIED MAIL # 70073020 000150105102  
RETURN RECEIPT REQUESTED

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Jason Masters, President  
Northern Biodiesel, Inc.  
317 Rt. 104  
Ontario, NY 14519-8999

Re: Violations of Renewable Fuel Standard Regulations  
Notice of Violation: File No. AED/MSEB - # 7886

Dear Mr. Masters:

The United States Environmental Protection Agency (EPA) commenced an investigation of Northern Biodiesel, Inc. (Northern Biodiesel) to determine compliance with Section 211(o) of the Clean Air Act (Act), 42 U.S.C. § 7545(o), and the Renewable Fuel Standard Regulations issued thereunder, found at 40 C.F.R. Part 80, Subpart K (RFS1 Regulations).

Section 211(o) of the Act was enacted as part of the Energy Policy Act of 2005 (the Energy Act), and requires EPA to implement a program to increase the volume of renewable fuels that are used in motor vehicles in the U.S. The Energy Act requires EPA to set annual renewable fuel standards, and to include a credit trading program in its regulations to facilitate compliance with these standards. EPA implemented this statutory mandate by promulgating regulations that allow obligated parties to comply with the annual renewable fuel standard through the purchase of renewable identification numbers (RINs), which are unique numbers generated to represent a volume of renewable fuel. The RFS1 Regulations specify who can generate RINs and under what conditions, how RINs may be transferred from one party to another, and the appropriate value of RINs generated from different types of renewable fuel. The RFS1 Regulations are expected to reduce dependence on foreign sources of petroleum, increase domestic sources of energy, and help transition to alternatives to petroleum in the transportation sector.

The RFS1 Regulations prohibit any person from generating more than one RIN for the same volume of renewable fuel. 40 C.F.R. § 80.1101(o) defines a RIN as a unique number generated to represent a volume of renewable fuel. Multiple RINs generated for the same volume of renewable fuel are not unique numbers representing the volume of renewable fuel, and are therefore improperly generated RINs. 40 C.F.R. § 80.1160(b)(1) prohibits any person from improperly generating a RIN (i.e., generating a RIN for which the applicable renewable fuel volume was not produced.) 40 C.F.R. § 80.1131(a) provides that an improperly generated RIN is

invalid, and 40 C.F.R. § 80.1160(b)(2) prohibits any person from creating or transferring to another person a RIN that is invalid under 40 C.F.R. § 80.1131.

EPA's investigation has revealed that Northern Biodiesel generated RINs for fuel that it did not import into the United States. Enclosure A sets forth a list of the RINs that EPA alleges Northern Biodiesel generated for fuel that it did not import into the United States. Northern Biodiesel transferred the RINs identified in Enclosure A to Verdeo, Inc. Based upon this information, EPA alleges that these RINs are invalid, and that Northern Biodiesel has violated 40 C.F.R. § 80.1160(b)(1) and (2) by generating and transferring invalid RINs.

This Notice of Violation (NOV) is issued to Northern Biodiesel pursuant to Sections 205 and 211 of the Act, 42 U.S.C. §§ 7524 and 7545, for the violations identified above. Sections 205 and 211 of the Act authorize EPA to assess a civil penalty of up to \$37,500 for every day for each violation, plus the economic benefit or savings resulting from each violation. In order to determine an appropriate penalty for each violation, EPA considers: the gravity of the violation; the economic benefit or savings (if any) resulting from the violation; the size of your business; your history of compliance with the Act; actions taken by you to remedy the violation and prevent future violations; the effect of the penalty on your ability to continue in business and other matters as justice may require. This NOV does not create any rights or waive any of your obligations under the Act, but rather is for the purpose of notifying you of the violations.

The EPA attorney assigned to this matter is Jeffrey A. Kodish. Please contact him regarding this NOV.


Jeffrey A. Kodish, Attorney-Advisor  
U.S. Environmental Protection Agency  
Mobile Source Enforcement Branch  
OECA/AED/Western Field Office (8MSU)  
1595 Wynkoop Street  
Denver, CO 80202-1129

We encourage early settlement of matters such as this. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in Federal district court.

We are offering you an opportunity to confer with us about the violation alleged in this NOV. The conference will give you an opportunity to present information on the alleged violation, any efforts you have taken to comply, and the steps you will take to prevent future violations. You may contact Jeffrey A. Kodish at (303) 312-7153 or by e-mail: [Kodish.Jeff@epa.gov](mailto:Kodish.Jeff@epa.gov) to request such a conference. This request should be made as soon as possible, but no later than 10 business days after your receipt of this NOV. Any conference should be held within 30 calendar days of your receipt of this NOV. By offering the opportunity for a conference, or participating in one, EPA does not waive or limit its right to any remedy available under the Act.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Phillip A. Brooks".

 Phillip A. Brooks, Director  
Air Enforcement Division

Cc: Michael J. Kochan, Northern Biodiesel, Inc.

**Enclosure A to Northern Biodiesel, Inc.**

**Notice of Violation**

(b) (4) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]